

CHAPTER 79 SOLID WASTE REGULATIONS

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SUBCHAPTER 1 SOLID WASTE REGULATIONS

79-1. Definitions. The following definitions shall apply in the interpretation and enforcement of this subchapter.

1. APPROVED shall mean approved by the commissioner of public works.

2. COMMISSIONER shall mean the commissioner of public works and such supervisory employees of the department to whom his authority may be delegated.

2.5. COMPOSTING means the controlled biological reduction of organics to humus.

3. DEPARTMENT shall mean the department of public works.

4. DWELLING UNIT shall mean any habitable room or group of adjoining habitable rooms located within a dwelling and forming a single unit with facilities which are used or intended to be used for living, sleeping, cooking or eating of meals.

4.3. ELECTRONIC DEVICE has the meaning given in s. 287.17 (1) (gm), Wis. Stats.

4.5. EXTRA GARBAGE CART means any city-issued garbage cart in excess of one garbage cart per dwelling unit provided for the collection of solid waste pursuant to s. 79-4-1.3.

5. HAZARDOUS SUBSTANCE means any substance or combination of substances including any waste of a solid, semi-solid, liquid or gaseous form which may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or which may

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pose a substantial present or potential hazard to human health or the environment because of its quantity, concentration, or physical, chemical or infectious characteristics. This term includes, but is not limited to, substances which are toxic, corrosive, flammable, irritants, strong sensitizers or explosives.

5.5. LANDFILL MATERIAL means material that is neither recyclable material nor suitable for composting.

6. LIQUID WASTE shall include drain oil, dirty or waste grease, paints, lacquers, varnishes, thinners, cleaning agents or solvents, and other similar waste materials.

7. LITTER shall include any waste or other things, substances or materials such as garbage, rubbish, used tires, manure, stones, gravel, sand, earth, grass, hay, leaves, twigs, shrubs, branches, ashes, cinders, sawdust, sweepings, dirt, glass, earthenware, wire, nails, construction waste, liquid waste, ice, snow, paper, electronic devices, oil filters, oil absorbent materials and all other debris and discarded materials of similar nature.

7.5. MULTIPLE-FAMILY DWELLING means a property containing 5 or more dwelling units, including those which are occupied seasonally.

8. NAUSEOUS OR OFFENSIVE MATERIALS are those which are unwholesome in nature or have an unpleasant smell or are otherwise nauseous or offensive, such as manure, filth, slops, carcasses, carrion, meat, fish, entrails, hides and hide scrapings, paint, kerosene, oily or greasy substances, and also objects that may cause injury to any person or animal, or damage to vehicle tires such as nails, tacks, pieces of metal, wire, briar thorns, broken glass, and other similar materials or substances.

8.5. OIL ABSORBENT MATERIALS means materials that are used to absorb waste oil.

8.7. OIL FILTER means a filter for motor vehicle engine oil.

8.13. WASTE OIL means any petroleum-derived or synthetic oil that has been used or spilled.

9. PERSON includes any individual, contractor, firm or corporation, or agent or servant thereof.

10. PREMISES shall mean a platted lot or part thereof or unplatted lot or parcel of land or plot of land, either occupied or unoccupied by any dwelling or nondwelling structure.

11. RECYCLABLE MATERIAL has the meaning specified in s. 79-23-23.

11.5. RESIDENTIAL DWELLING means a property containing 4 or fewer dwelling units.

12. SOLID WASTE consists of the following categories:

a. Bulky waste is discarded articles, including, but not limited to, furniture designed or manufactured for indoor use, including, but not limited to, upholstered furniture, that has been left exposed in an outdoor area, including an unenclosed porch. The term does not include electronic devices, as defined in sub. 4.5, or major appliances as defined in s. 79-23-10.

b. Commercial waste is garbage, rubbish, tree waste, bulky waste, liquid waste, or nauseous or offensive materials resulting from the operation of business enterprises, including, but not limited to, factories, offices, stores or restaurants.

c. Construction waste is waste resulting from construction, demolition, alteration or repair, including excavated material. This includes, but is not limited to, roofing material, brick, stones, concrete, lumber, drywall, paneling and other construction material and is exclusive of any waste resulting from a fire, any painted bricks, blocks or concrete, any asphalt, or any concrete containing iron rods.

d. Domestic waste is garbage, rubbish, tree waste, or certain liquid waste or nauseous or offensive materials resulting from human habitation and the usual routine of housekeeping of residential or multiple-family dwelling units, churches, charitable educational institutions, charitable organizations or residence buildings used by such charitable organizations incident to their operation.

e. Garbage is all waste, animal, fish, fowl, fruit, or vegetable matter incident to and resulting from the use, preparation or storage of food for human consumption, including spoiled food.

f. Manufacturing waste is waste resulting from manufacturing or industrial processes, but shall not include waste generated by human habitation of the manufacturing or industrial premises.

g. Organics is compostable garbage and yard waste.

h. Rubbish is miscellaneous waste material resulting from housekeeping or ordinary mercantile enterprises, including boxes, cartons, excelsior, paper, ashes, cinders, tin cans, bottles, broken glass, metals, rubber, packaging, including flexible packaging or multi-layer containers, plastics, lawn or garden waste or similar materials.

i. Tree Waste is domestic or commercial waste resulting from the removal, pruning or trimming of trees, including branches, limbs, trunks and stumps having a diameter of greater than 6 inches.

j. Yard waste is leaves, grass clippings, garden debris and brush. Brush includes branches and tree limbs having a diameter of less than 6 inches.

13. WASTE TIRE means a tire that is no longer suitable for its original purpose because of wear, damage or defect. The term includes an unserviceable tire as defined in s. 84-48.

79-2. Collection Regulations. 1. GENERAL REGULATIONS; MULTIUNIT DWELLINGS.

a. Mixed solid waste of domestic origin, unless contents are specifically excluded, shall be collected by the department, provided such waste is properly handled, contained, stored and located in conformance with the rules of the commissioner.

b. The department shall charge a fee to the owners of multiunit dwellings with 5 or more units, except condominiums, to recover 100% of the cost of collection services.

b-1. The fee charged under this paragraph shall include indirect costs.

b-2. The amount of the fee charged under this paragraph shall be determined on or before January 31 of each year by the commissioner of public works, subject to the approval of the common council. After January 31 of each year, based on the level of revenue being generated during that year, the commissioner may change the charge rate no more than once additionally per year to meet the cost recovery goal cited above, again subject to the approval of the common council.

b-3. The commissioner of public works shall annually on or before September 28, submit a report to the common council relating to the number of multiunit dwellings with 5 or more units serviced, fees collected versus not-collected and net cost recovery rate.

b-4. Whenever any fee authorized to be collected under this paragraph has been billed but has not been timely paid, the commissioner may impose a special charge against the property for the amount of the unpaid fee as provided in s. 79-16-2-b.

c. Owners of multiunit dwellings with 5 or more units who choose not to have city removal of solid waste shall be required to provide for removal of solid waste on a weekly basis.

2. DOMESTIC GARBAGE shall be drained of all free liquid, placed in plastic bags or wrapped in several thicknesses of paper or other

similar material and stored in approved containers. The department may refuse to collect undrained garbage that is not properly stored.

3. COMMERCIAL GARBAGE need not be wrapped, but must be stored in approved containers. Such unwrapped garbage may be collected by the department, subject to the rules of the commissioner. Undrained garbage of a liquid or semi-liquid nature shall not be collected.

4. RUBBISH shall be stored in approved containers. Ashes shall be sufficiently dampened to prevent spreading of particles and dust, but shall not be wet beyond this point. Rubbish that is larger than can be stored in approved containers shall be securely tied in compact bundles, not to exceed 100 pounds in weight or more than 4 feet in length, or more than 2 feet in diameter, and placed adjacent to waste containers. Tree logs and branches shall not exceed 4 feet in length, or 10 inches in diameter, and shall be placed immediately behind the curb or alley line.

5. SMALL DEAD ANIMALS found in the public right-of-way shall be collected by the department.

6. NAUSEOUS OR OFFENSIVE WASTE. Liquid, manure, and other offensive or harmful waste. All liquid, hazardous or toxic waste, and certain nauseous or offensive waste shall be stored separately from all other waste in approved containers. Such containers shall be clearly labeled, rodent resistant, nuisance free, safe and secured to prevent access by the public, or as otherwise provided in the rules of the commissioner and not contrary to any order from the commissioner of health or the commissioner of neighborhood services. Such waste shall be considered commercial waste, and need not be collected by the department.

7. CONSTRUCTION WASTE. No owner, lessee, managing agent or contractor shall permit an accumulation of construction waste to remain upon any premises, street, alley or public place. Such waste shall be stored and handled in an approved manner and not contrary to any order of the commissioner of health or the commissioner of neighborhood services. Such waste shall be considered commercial waste and need not be collected by the department except such persons may apply to the department for special collection service as provided under s. 79-6.5.

8. DOMESTIC TREE AND BULKY WASTE. a. Trees, logs and branches generated in normal household maintenance not exceeding 2 cubic yards shall be collected by the department between April 1 and November 30.

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The waste shall be stored and handled in an approved manner and not contrary to any order of the commissioner of health or the commissioner of neighborhood services. Collection shall be scheduled as practical by the department.

b. Bulky waste not exceeding one cubic yard shall be collected by the department. The waste shall be stored and handled in an approved manner and not contrary to any order of the commissioner of health or the commissioner of neighborhood services. Collection shall be scheduled as practical by the department.

9. **MANUFACTURING WASTE** shall be clearly labeled and stored in an approved manner, not contrary to any order of the commissioner of health or the commissioner of neighborhood services. No person shall allow an excessive accumulation of such waste upon any premises, but shall cause such waste to be removed regularly and as necessary. The department shall not be responsible for collection of such waste.

10. **LEAD ACID BATTERIES.** In this subsection, "lead acid battery" means any battery which is primarily composed of both lead and sulfuric acid, with a capacity of 6 volts or more.

a. No person may place a used lead acid battery in mixed municipal solid waste or discard or otherwise dispose of a lead acid battery except by delivery to an automotive battery retailer or wholesaler, a collection or recycling facility or a secondary lead smelter.

b. No automotive battery retailer may dispose of a used lead acid battery except by delivery to the agent of a battery wholesaler, to a battery manufacturer for delivery to a secondary lead smelter, to a collection or recycling facility or to a secondary lead smelter.

c. Each battery improperly disposed under pars. a or b shall constitute a separate violation.

d. Retailers and wholesalers of lead acid batteries shall provide for collection of used lead acid batteries for recycling as follows:

d-1. Any person selling lead acid batteries at retail shall accept at the point of transfer, in a quantity at least equal to the number of new batteries purchased, used lead acid batteries offered by customers.

d-2. Any person selling lead acid batteries at wholesale shall accept at the point of transfer, in a quantity at least equal to the number of new batteries purchased, used lead acid batteries offered by customers. Any automotive battery wholesaler accepting batteries from any automotive battery retailer shall remove batteries

from the retail point of collection not less than every 90 days.

11. **YARD WASTE.** Yard waste shall not be collected by the department. Residents shall dispose of yard waste generated on their properties at sites designated by the commissioner.

a. Yard waste shall be disposed of at least once every 2 weeks during the yard waste season as determined by the commissioner, except that residents may allow grass clippings to remain on their lawns rather than adding them to other yard waste which may accumulate on their properties, or grass clippings and garden debris may be composted in a manner specified by the commissioner.

b. Between disposals, yard waste shall be stored in bags, boxes or other containers in a manner preventing creation of a nuisance.

c. Upon disposal at approved sites, residents shall debag or otherwise decontainerize all yard waste before depositing it in the yard waste receptacles provided.

12. **OIL FILTERS AND OIL ABSORBENT MATERIALS.**

a. No person may place a used oil filter in mixed municipal solid waste.

b. No person may place oil absorbent materials in mixed municipal solid waste, except for the disposal of less than one gallon of oil absorbent materials that contain waste oil resulting from a nonroutine spill.

13. **ELECTRONIC DEVICES.**

a. Electronic devices as specified in s. 287.07 (5), Wis. Stats., shall be collected by the department as provided under s. 79-6.5-9.

b. No person may place an electronic device in mixed municipal solid waste or discard or otherwise dispose of an electronic device except by delivery to an electronic device collection or recycling facility.

79-3. Waste Containers Required.

1. **RESIDENTIAL PREMISES.**

Containers as specified under s. 79-4 or as otherwise approved by the commissioner shall be provided by the owner for each dwelling unit. Containers shall be kept clean and maintained in good repair and shall be free and fully accessible at all times for handling for collection. Sufficient containers for not less than 2 weeks' accumulation shall be required for each dwelling unit. For purposes of this section, the minimum of containers shall be determined on the basis of one can for each resident person in the dwelling unit.

2. NUISANCE ABATEMENT. Where a nuisance is found to exist due to insufficient containers, an order shall be directed to the property owner, where practical, to furnish sufficient approved containers as required in this section. Except for receptacles required in sub. 4-a-1 where the owner fails to provide such containers or where it is impractical to serve such an order, the city shall furnish the required containers and assess the cost thereof as a lien upon the lot or premises involved in the same manner as any tax on real estate.

3. FOR COMMERCIAL OFF-STREET PARKING AREAS. Owners or operators of commercial or business establishments which have off-street parking areas available for their patrons shall provide approved waste receptacles in such parking areas for the use of patrons of such establishments sufficient to receive and store solid waste discarded by such patrons; such receptacles to be serviced by said owners or operators or their private hauler.

4. FOR COMMERCIAL AREAS.
a-1. Receptacles Required. Containers as specified under s. 79-4 or as otherwise approved by the commissioner shall be provided by the property owner or operator. Containers shall be maintained in good repair. Sufficient containers for not less than 2 weeks' accumulation shall be required for the property or business, and collection shall be made at least weekly unless arrangements are made for more frequent collection as required by the department. The property owner or operator shall ensure the waste is removed by a private entity.

a-2. Receptacles to be Secured. The owners or operators of shopping centers, commercial or business establishments are to secure all of their solid waste receptacles not meant for public or their patrons' use and which are located on their premises but outside of any building. If such solid waste receptacles are not secured, the owners or operators of such shopping centers, commercial or business establishments shall provide enclosures constructed so as to prevent ready access to such receptacles. Such enclosures located on the property shall further be constructed so that they shall provide a compatible and practical arrangement on the premises and surrounding area.

b. Large Appliances to be Enclosed. Owners or operators of business and commercial establishments storing large appliances such as refrigerators, stoves, washing machines and other similar items outside of the building structure, shall

provide enclosures of the area wherein such items are stored in the same manner and as provided in par a.

c. Definitions. For the purpose of subs. 3 and 4, the following terms therein are defined as follows:

c-1. "Approved waste receptacles" shall mean those as provided and defined in s. 79-4.

c-2. "Secure" shall mean to be locked or closed in such a manner so as to prevent ready access to contents thereof.

c-3. "Shopping center" shall mean a group of commercial establishments planned and developed generally as a unit with off-street parking facilities provided on the property for patrons of said establishments.

79-4. Waste Container Regulations.

1. PORTABLE CONTAINERS.

a. Requirements. Portable containers for waste, except for containers for use in cart collection, shall be rodent resistant of substantial metal construction equipped with at least 2 handles and a tight fitting cover, shall have a capacity of not less than 20 nor more than 32 gallons and no single container when filled shall weigh more than 100 pounds. Waste not containing garbage may be stored in other approved ways as provided in this chapter, and in the rules of the commissioner.

am. Responsibility for Providing Portable Waste Containers. In areas of the city where the use of carts for the disposal of solid waste has been approved by the common council:

am-1. Owners of single, 2-, 3-, or 4-family dwelling units shall be provided carts by the city.

am-2. Owners of multi-unit dwellings of 5 or more units in the same structure shall provide, at their cost, containers of a type specified by the operations division.

as. Repair, Replacement or Sale. The operations division may:

as-1. Repair damaged portable containers or replace them if necessary and charge the property owner accordingly in cases where damage or loss can be determined by resident's misuse of the container.

as-2. Sell portable containers, at cost, to those property owners or individuals who require them for the proper disposal of waste.

as-3. Make a special assessment against the property served by the portable container if any charge for repair, replacement or sale of a container is not paid for within 30 days from receipt of billing statement.

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b. Plastic Bags, etc. Approved bags and boxes made of plastic or paper shall not be used outside of the portable containers, except for the sole purpose of storing grass clippings, leaves, branches and paper.

c. Posting of Signs. Retail stores selling approved plastic bags intended or generally used for the storage of garbage, rubbish and trash shall have posted, in the vicinity of said bags, in a prominent and conspicuous manner, using bold lettering at least one inch in height, a placard stating as follows: "Garbage stored in plastic bags must be placed in garbage cans." This section of the code shall also be cited on the placard.

1.3. EXTRA GARBAGE CART CHARGE.

a. Purpose. The purpose of this section is to permit the city as authorized under ss. 66.0405 and 66.0627, Wis. Stats., to recover costs relating to providing extra garbage carts for the collection of solid waste from one, 2-, 3- and 4-family dwelling units.

b. Charge. The department may authorize the issuance or retention of extra garbage carts, if necessary, to provide for proper storage and disposal of domestic waste and garbage. Owners of properties that receive or retain extra garbage carts shall pay an extra garbage cart fee as provided for under s. 81-51.5.

c. Overall Responsibility for Administering the Extra Garbage Cart Charge. The commissioner of public works shall administer the extra garbage cart charge. The commissioner may formulate and promulgate rules which shall be applicable with respect to the administration and collection of the extra garbage cart charge, and may make amendments thereto, subject to approval by the public works committee as may be required from time to time for proper application of the extra garbage cart charge.

d. Responsibility of City Officers and Departments Administering the Extra Garbage Cart Charge.

d-1. Superintendent of Water Works. The superintendent of water works shall be responsible, under the commissioner of public works, for the administration of the extra garbage cart charge. The superintendent shall collect the charge and transmit the revenue therefrom to the city treasurer together with solid waste, water, snow and ice removal cost recovery charge and local sewerage revenues as received.

d-2. City Treasurer. The city treasurer shall receive revenues from the extra garbage cart charge and shall also collect delinquent accounts

when the delinquent accounts have been placed on the tax roll as provided for in this section.

d-3. City Comptroller. The city comptroller shall certify to the commissioner of assessments delinquent accounts to be placed on the tax roll, which shall be collected in the same manner as special charges under s.66.0627, Wis.Stats. The comptroller shall keep separate accounts of all the funds, receipts and payments on account of the extra garbage cart charge.

e. Billing and Collecting. e-1. The extra garbage cart charge shall be levied against the water account and shall be calculated by the water works. The charge shall be added to the city services user bill and shall be due and payable in the same manner as water bills.

e-2. An interest penalty and late charge of 3% on outstanding balances shall be charged on all past due accounts each quarter. This fee may be waived by the water works where deemed warranted by special circumstances. Charges that remain unpaid for 2 full quarters shall be deemed delinquent. The delinquent user charges and 10% penalty shall be reported to the city comptroller for placement on the tax roll.

e-3. When partial payments of the combined city services user bill are made, the property owner may direct in writing how the partial payment is to be applied to the combined bill. If there is no written direction, the partial payment shall be applied to the water charges first. Any portion of the partial payment remaining after the water charges are paid for shall be applied to the metropolitan sewerage district charges, the local sewerage charges, the storm water management charges, the solid waste charge, the extra garbage cart charge and the snow and ice removal cost recovery charge, in that order; and then late charges for the solid waste charge, the snow and ice removal cost recovery charge and the extra garbage cart charge. Any overpayment of the combined bill shall be applied to the water charge on the account for the property.

f. Saving Clause. It is the intent of the common council that the provisions of this section relating to an extra garbage cart charge, and the application of revenue from this charge are separable. If any provision or part of this section be held unconstitutional or invalid by a court of competent jurisdiction, the decision shall not affect the validity of any other provisions or part of the section which other provisions and parts shall remain in full force and effect.

g. Appeal Procedure. g-1. Whenever any extra garbage cart charge is imposed in accordance with this section, and the person required to pay the charge feels aggrieved as a result of the imposition or collection of the charge, the person shall pay the charge when the same shall become due, but shall pay it "under protest." Within 20 days following the payment, the person may file with the commissioner of public works a complaint to the effect that the person is aggrieved by the imposition and collection of the extra garbage cart charge, his or her specific reasons for objection and the amount of the overcharge complained of.

g-2. If, upon review by the commissioner of public works, it is determined that all or any part of any extra garbage cart charge paid under protest is not just or reasonable, the commissioner shall institute necessary procedures for a refund. If any person feels aggrieved by the determination of the commissioner, the person may file a complaint with the administrative review appeals board, pursuant to s. 320-11.

1.5. PORTABLE CONTAINERS; PROHIBITED USES. a. No person shall use a city-owned portable waste container or a city-owned portable recyclable material container for any purpose except the storage of waste or recyclables for curbside or alley collection by the operations division. No person shall use a city-owned portable waste container or a city-owned portable recyclable material container to transport any material for any purpose other than to transport waste or recyclables from the premises to the curb or alley for collection.

b. No person who is the owner, occupant, manager or other responsible agent of any property from which the operations division does not collect waste or recyclables shall permit a city-owned portable waste container or a city-owned portable recyclable material container to be brought onto or remain on the property.

2. NONPORTABLE CONTAINERS. Owners, lessees or managing agents of multi-unit dwellings of 5 or more units in the same structure or condominium design shall provide, at their cost, containers of a type specified by the operations division where the use of portable waste containers is inappropriate. Nonportable containers shall be fully enclosed, rodent resistant and of substantial construction, and have a minimum capacity of one-half cubic yard per dwelling unit or of sufficient capacity to hold 2 weeks of waste accumulation. All owners, lessees or managing agents providing nonportable containers as described in this subsection shall be

required as a condition of collection to sign a written declaration, formulated by the city attorney, to the effect that the city shall be held harmless as against any claim, demand or cause of such action which may arise as a result of such collection in favor of any person or entity.

3. NONPORTABLE CONTAINERS; CONSTRUCTION. Nonportable, mechanical lift, tapered rear loading containers equipped with casters, wheels, or rollers shall be fully enclosed, rodent resistant, and of substantial construction. Containers shall be secured or modified in such a manner as to prevent accidental tipping or free-rolling.

4. CONDOMINIUMS. Where collection service is provided by the department to a condominium complex, the city shall provide containers of a type and quantity determined at the discretion of the operations division to the owners of such condominium units in the same structure or condominium design, regardless of the number of units in the complex.

79-5. Location of Containers. 1. ON PREMISES. All containers used for solid waste disposal shall be stored on the premises, except dumpsters for which special privileges to allow placement in the public right-of-way have been granted pursuant to s. 245-12. Where containers are kept within any enclosure, the enclosure shall have a door of sufficient size to allow the containers to be removed by sliding or rolling forward without being lifted.

2. NEAR ALLEY. Containers shall be stored immediately adjacent to the alley except where a premises does not have an alley, in which case containers shall be stored in the rear yard. If the rear yard may not be utilized for this purpose, the side yard may be used providing the containers are sited as conveniently as possible for servicing, as specified by the commissioner of public works. If the property owner can prove to the satisfaction of the commissioner that the rear or side yard cannot be used, the commissioner shall approve an alternate location prior to its use.

3. ACCESSIBILITY. It shall be the responsibility of the owners and tenants of every premises where solid waste is collected to provide a clear and unhindered path to all containers. The path shall be a width specified by the commissioner and shall be free of hindrances such as, but not limited to, large debris, vehicles, locked fences, animals, ice or 3 or more inches of snow. The surface of the path must be firm and nonhazardous.

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4. **COLLECTION CHARGE.** If the location of the containers is more than 125 feet from the servicing vehicle or the containers are inconveniently located, the commissioner may charge for collection.

5. **RETURN TO STORAGE LOCATION.** Owners and tenants of those premises serviced by the cart collection system, where carts are left at the alley line or curb line after servicing, shall return the carts to their proper storage location before 10 p.m. on the day they are serviced.

6. **ADDRESSES POSTED.** To facilitate collection services, the addresses of all residences and buildings shall be conspicuously posted at the front and rear or side of all properties so as to be easily seen and read, according to s. 113-2-5.

79-5.5. Unauthorized Removal of Contents of Waste Containers. 1. No person shall remove any material from a waste container that has been furnished by the city for the collection of solid waste. This prohibition applies to portable and nonportable containers.

2. This section does not apply to employees and agents of the city in the performance of their duties or to materials that are removed by the person who deposited them.

79-5.7. Unauthorized Addition to Contents of Waste Containers. 1. No person, except the owners or occupants serviced by a nonportable container, may place any hazardous substance, liquid waste, litter, recyclable material or solid waste into that container, without the owners' or occupants' permission.

2. This section does not apply to employees and agents of the city in performance of their duties.

79-6. Solid Waste Charge.

1. **PURPOSE.** The purpose of this section is to permit the city as authorized under ss. 66.0405 and 66.0627 Wis. Stats., to recover costs relating to collection of solid waste from one, 2-, 3- and 4- family dwelling units.

2. **CHARGE.** a. There is imposed a solid waste charge to be collected on a quarterly basis, on all one, 2-, 3- and 4- family dwelling units, including condominium facilities where collection service is provided by the department irrespective of the number of dwelling units, and for other properties for which solid waste service is provided by the city. This does not include service to commercial and manufacturing properties and multiunit dwellings with 5 or more units.

b. The common council shall adopt a resolution on an annual basis establishing the solid waste charge imposed in accordance with this section. The solid waste charge may, subject to common council approval, be adjusted no more than once additionally per year on the basis of cost recovery experience or to ensure total charges are allocated equitably.

3. **OVERALL RESPONSIBILITY FOR ADMINISTERING THE SOLID WASTE CHARGE.** The commissioner of public works shall administer the solid waste charge. The commissioner may formulate and promulgate rules which shall be applicable with respect to the administration and collection of the solid waste charge, and may make amendments thereto, subject to approval by the public safety and health committee as may be required from time to time for proper application of the solid waste charge.

4. **RESPONSIBILITY OF CITY OFFICERS AND DEPARTMENTS ADMINISTERING THE SOLID WASTE CHARGE.**

a. **Superintendent of Water Works.** The superintendent of water works shall be responsible, under the commissioner of public works, for the administration of the solid waste charge. The superintendent shall collect the charge and transmit the revenue therefrom to the city treasurer together with water and local sewerage revenues as received.

b. **City Treasurer.** The city treasurer shall receive revenues from the solid waste charge and shall also collect delinquent accounts when such delinquent accounts have been placed on the tax roll as provided for in this section.

c. **City Comptroller.** The city comptroller shall certify to the commissioner of assessments delinquent accounts to be placed on the tax roll, which shall be collected in the same manner as special charges under s. 66.0627, Wis. Stats. The comptroller shall keep separate accounts of all the funds, receipts and payments on account of said solid waste charge.

5. **BILLING AND COLLECTING.** The solid waste charge shall be levied against water accounts and all other sewer users who are assessed the charge under sub.2, and shall be calculated by the water works. The charge shall be added to the water/sewer user bill and shall be due and payable in the same manner as water bills.

a. An interest penalty and late charge of 3% on outstanding balances will be charged on all past due accounts each quarter. This fee may be waived by the water works where deemed

warranted by special circumstances. Charges that remain unpaid for 2 full quarters on October 1 shall be deemed delinquent. Such delinquent user charges and 10% penalty shall be reported to the city comptroller for placement on the tax roll.

b. When partial payments of the combined city services user bill are made, the property owner may direct in writing how the partial payment is to be applied to the combined bill. If there is no written direction, the partial payment shall be applied to the water charges first. Any portion of the partial payment remaining after the water charges are paid for shall be applied to the metropolitan sewerage district charges, the local sewerage charges, the storm water management charges, the solid waste charge, the extra garbage cart charge and the snow and ice removal cost recovery charge, in that order; and then late charges for the solid waste charge, the snow and ice removal cost recovery charge and the extra garbage cart charge. Any overpayment of the combined bill shall be applied to the water charge on the account for the property.

6. **SAVING CLAUSE.** It is the intent of the common council that the provisions of this section relating to a solid waste charge, and the application of revenue from this charge are separable. If any provision or part of this section be held unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of any other provisions or part of the section which other provisions and parts shall remain in full force and effect.

7. **APPEAL PROCEDURE.**

a. Whenever any solid waste charge is imposed in accordance with this section, and the person required to pay such charge feels aggrieved as a result of the imposition or collection of such charge, such person shall pay such charge when the same shall become due, but shall pay it "under protest." Within 20 days following such payment, such person may file with the commissioner of public works a complaint to the effect that such person is aggrieved by the imposition and collection of such solid waste charge, his or her specific reasons for objection and the amount of the overcharge complained of.

b. If, upon review by the commissioner of public works, it is determined that all or any part of any solid waste charge paid under protest is not just or reasonable, the commissioner shall institute necessary procedures for a refund. If any person feels aggrieved by the determination of the commissioner, the person may file a complaint with the administrative review appeals board, pursuant to s. 320-11.

79-6.5. Special Collection Charges. As provided herein, certain wastes shall be collected by the department without charge, while others may be refused, or may be collected at a charge established by the commissioner, or as specified under sub. 3-c. Such charges shall be reasonable and based upon the disposal charges and cost of labor, equipment and overhead.

1. **DOMESTIC WASTE** shall be collected without charge unless otherwise provided in this section.

2. **DOMESTIC WASTE, OFFENSIVE OR HARMFUL.** Liquid, manure and other offensive or harmful waste as specified in s. 79-2-6. Such waste depending on its nature and quantity may be collected without charge, refused or collected for a charge in accordance with this chapter and the rules of the commissioner.

3. **DOMESTIC TREE AND BULKY WASTE.** a. Domestic tree waste, limited to quantity and origin as specified in this chapter and the rules of the commissioner, shall be collected without charge.

b-1. Bulky waste, not exceeding one cubic yard and origin as specified in this chapter and the rules of the commissioner, shall be collected without charge.

b-2. Bulky waste, exceeding 6 cubic yards, limited to quantity or origin, as specified in this chapter and the rules of the commissioner, shall not be removed by the department.

c-1. The commissioner may have bulky waste exceeding one cubic yard but not exceeding 6 cubic yards removed. The costs of this action shall be collected from the owner of the property at which the bulky waste is deposited, subject to the bulky collection charge established under s. 81-15.5. Bulky waste exceeding one cubic yard shall be tagged by the commissioner with a notice to the property owner to remove the waste within 3 days or be subject to the charge. The bulky waste collection charge shall be due and payable 30 days after billing. If any owner fails, omits, neglects or refuses to pay any charge imposed under s. 81-15.5 for bulky waste collection, pursuant to s. 66.0627, Wis. Stats., the charge may be assessed against the subject property. The lien shall take effect as of the date of the delinquency. The lien shall automatically be extended upon the current or next tax roll as a delinquent tax against the property and all proceedings in relation to the collection, return and sale of the property for delinquent real estate taxes shall apply to such charge. The charge shall not be payable in installments. If any owner fails to notify the department that the bulky waste exceeding one cubic yard has been removed,

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resulting in a crew being dispatched to the property, the owner shall be charged a stop fee established under s. 81-15.5.

c-2. Paragraph b-2 and subdivision 1 do not apply to bulky waste collected annually during the clean and green collection period for the property as established by the commissioner.

4. **COMMERCIAL WASTE** may be collected only after a service charge has been deposited with the department based on charges established by the commissioner.

5. **COMMERCIAL WASTE, OFFENSIVE OR HARMFUL.** Liquid, manure and other offensive or harmful waste as specified in s. 79-2-5. Such waste depending on its nature and quantity may be collected for a charge or refused in accordance with this chapter and the rules of the commissioner.

6. **CONSTRUCTION WASTE** shall not be collected until the owner, lessee, or managing agent of the premises shall have complied with the requirements of sub. 7.

7. **SPECIAL COLLECTION SERVICE.** Any person desiring the removal of waste not collected in the course of regular service, except waste specified in sub. 8, may apply to the department for special service and arrange for removal at the applicant's expense. The department may estimate removal and disposal cost and upon such determination the applicant shall deposit the estimated cost with the department. The department may remove or cause removal of the waste and charge the cost against such deposit. The department may provide assistance to law enforcement agencies at their request and without charge, for special collection services, including the use of vehicles and equipment.

8. **DOMESTIC WASTE; MULTIUNIT DWELLINGS.** Domestic waste from multiunit dwellings with 5 or more units may be collected by the department at a charge established by the commissioner, pursuant to s. 79-2-1-b. The department shall bill apartment owners in advance of any waste being collected.

9. **ELECTRONIC DEVICES** may be collected for a charge as established by the commissioner or refused in accordance with this chapter and the rules of the commissioner.

79-7. Advance Deposit. Any person desiring periodic or special collection and disposal of waste not normally collected shall deposit with the department a sum sufficient to cover the estimated cost. The department shall refund any balance after the charges against such deposit have been paid.

79-8. Collection Conditions. Collection of waste by the department is conditioned upon full compliance with all provisions of this chapter and the rules of the commissioner.

79-9. Private Waste Collector Regulations. Transportation and collection of waste shall be in full compliance with all of the provisions of this chapter.

1. **NUISANCE PROHIBITED.** No person shall transport material of any kind whatsoever in any vehicle unless the vehicle is so operated and of such construction that the contents shall not blow, fall, scatter, leak or spill upon streets or alleys, or otherwise create a nuisance.

2. **PRIVATE COLLECTOR'S LICENSE.**

a. No person, except employees of the department in the regular performance of duty, shall collect or transport waste materials on any street or alley, except those acting under the authority of a licensed private waste collector. Each vehicle used by a collector shall bear a license sticker. The sticker shall be prominently displayed on each vehicle.

b. See ch. 81 for the required license fee.

3. **GRAFFITI CONTROL.** a. In this subsection, "graffiti" has the definition provided in s. 275-35-1.

b. Each licensed private waste collector or applicant for a private waste collector's license shall submit a plan for ongoing and scheduled removal of graffiti on waste containers. The plan shall be attached to the application for a new license or license renewal filed with the city clerk's office. The plan shall include a fax number and the name of the administrator responsible for maintenance for the applicant or licensee and the plan shall be forwarded to the department of neighborhood services.

c. Each private waste container shall be clearly marked or have signage noting the name and phone number of the company responsible for maintenance of the waste container.

d. Graffiti on private waste containers shall be removed within 3 working days following notification by the department of neighborhood services or within 3 working days of the last time the container was emptied, irrespective of any plan submitted under par. b.

4. PENALTY.

a. Any licensed private waste collector who violates any provision of this section shall forfeit not less than \$250 nor more than \$1,000 for each offense, and the costs and disbursements of such action, and in default thereof, shall be imprisoned in the county jail or house of correction for not less than 10 days nor more than 40 days, until such forfeiture costs are paid.

b. Each day of violation shall be a separate offense.

c. Every private waste collector's license may be suspended or revoked by the commissioner of the department of neighborhood services for failure to comply with sub. 3.

d. Every private waste collector's license may be suspended or revoked by the commissioner of public works for failure to comply with any of the rules of the commissioner or if the licensee is convicted of illegal dumping of waste within the city or outside the city under any applicable state statute or code provision.

79-10. Littering on Street by Motor Vehicle.

1. **AUTHORITY.** The commissioner shall make rules to regulate load stability and the cleaning of vehicle tires, bodies and other parts when any vehicle proceeds from a premises onto any street, alley or public place.

2. **CONTRACTOR RESPONSIBLE.** No person shall allow any vehicle to proceed from any construction site, whether operated by the contractor, his agent, employee or subcontractor, in such manner as to dump, drop, scatter, track or deposit any litter upon any street, alley or public place. The commissioner shall be and is empowered to order any contractor to take such precautions as he deems necessary to prevent littering, and to remove any such litter. In the event any contractor shall fail to comply with an order of the commissioner, said commissioner or any commanding officer of a police district may order such operations stopped.

3. **EXCEPTION.** This section shall not apply to construction work within a barricaded area permitted in the street right-of-way pursuant to a city excavation permit, a city contract, or work by city employees.

4. **LOOSE LOADS.** All vehicles carrying loose loads such as sand, gravel, demolition debris, or any other miscellaneous debris are

required to cover said loads with a canvas, net-type, or other covering approved by the commissioner of public works.

79-11. Littering of Public Property. No person shall deposit or cause to be deposited, dropped, dumped, discharged, left, spilled or scattered, any litter, nauseous or offensive substance or material, in or upon any park or parkway, sidewalk, street, alley, gutter, catch basin, storm inlet, or other public facility or place. Nothing contained in this section shall prohibit the placing of temporary patch material, sand, ashes, sawdust or salt upon any sidewalk, street or alley for safety in travel, nor the placing of leaves on the street, in season, from October 1 to November 15 inclusive.

79-12. Littering of Premises. 1. PROHIBITED. No person shall deposit, or permit or cause to be deposited, any litter, solid waste or nauseous or offensive substance or material upon any premises, except for materials placed in a manner approved by state or other local regulations, and not in conflict with this chapter.

2. **RESPONSIBLE PERSONS.** The premises owner and any person in possession of the premises are responsible for maintaining the premises in a condition that does not violate this section. A tenant who is in possession of a premises may be cited for a violation of this section when there is prima facie evidence of the tenant's culpability.

79-12.5. Regulation of Compost Piles.

1. **COMPOST PILES.** Compost piles shall consist primarily of yard waste. The following items are specifically prohibited from inclusion in any compost pile:

- a. Oils, grease and lard.
- b. Dairy or meat products.
- c. Feces - human, dog, cat or bird.
- d. Diseased plant waste.
- e. Poisonous substances.
- f. Treated lumber, sawdust from treated lumber.
- g. Materials that have been treated with chemicals.

h. Inorganic material.

2. **COMPOSTING BINS.** All compost piles shall be contained in composting bins.

a. Composting bins shall meet the following specifications:

a-1. Each bin shall be no taller than 5 feet and the total volume of all bins on a property shall not exceed 125 cubic feet.

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a-2. Each bin shall be constructed of commercial-grade material such as heavy-duty plastic, cinderblock, brick, wood or of such other materials as may be approved by the commissioner.

a-3. Each bin shall be built with a hood that permits the venting of gasses without permitting the entrance of rodents.

a-4. Each bin shall be maintained so as to inhibit the entrance of rodents, flying insects and other pests.

a-5. Each bin shall be maintained using proper composting techniques including, but not limited to, timely aeration, soil addition and the monitoring of moisture content.

b. Composting bins shall not be placed in front yards and shall be placed no less than 20 feet from any habitable structure.

79-13. Sidewalks to be kept Clean. No person being the owner of or in possession of premises shall use and maintain such premises or allow such premises to be used in a manner which will permit dirt, mud, snow, ice or other foreign materials to be deposited or accumulate on the public sidewalk.

79-14. Household or Commercial Waste In Certain Containers.

1. ANTI-LITTER BINS. No person shall deposit household, construction or commercial waste in or about anti-litter bins provided by the city, unless granted temporary permission by the department pursuant to the rules of the commissioner.

2. NEIGHBORHOOD CLEANUP DUMPSTERS. No person shall deposit construction or commercial waste in or about neighborhood cleanup dumpsters or other nonportable containers provided by the city, unless granted temporary permission by the department pursuant to the rules of the commissioner.

79-14.5. Depositing of Materials at Drop-off Centers. **1. MATERIALS ACCEPTED.** Solid waste shall be accepted for deposit at a city drop-off center according to the conditions for load acceptance established by the commissioner or his or her designee, subject to the exclusions in sub. 2.

2. EXCLUSION. Manufacturing waste and materials that are hazardous substances, other than domestic waste, shall not be accepted for deposit.

3. FEE. Any person that causes to be deposited, dropped, dumped, discharged or left any solid waste at a city drop-off center shall be assessed a fee according to a fee schedule established by the commissioner of public works or his or her designee.

4. FEE WAIVED FOR CERTAIN TYPES OF SOLID WASTE. The fee for selected types of solid waste may be waived according to the fee schedule established by the commissioner of public works or his or her designee.

79-15. Enforcement. The police department, department of neighborhood services, department of health and the department of public works shall enforce this subchapter.

79-16. Penalty 1. FORFEITURE. a. Any person who violates any provision of this subchapter except ss. 79-5.5, 79-11, 79-12-1 and 79-14-2 shall forfeit \$500 including all forfeitures, penalties, fees and assessments levied by the court for the first offense and for each subsequent offense, and the costs and disbursements of such action, and in default thereof, or failure to discharge the imposed forfeit through community service or other means satisfactory to the court, shall be imprisoned as provided by law.

b. Any person who violates s. 79-5.5 shall forfeit not less than \$25 nor more than \$500 for the first offense and not less than \$50 nor more than \$500 for each subsequent offense.

c. Any person who violates s. 79-14-2 shall forfeit not less than \$350 nor more than \$500 for the first offense and not less than \$400 nor more than \$750 for each subsequent offense.

d. Any person who violates ss. 79-11 or 79-12-1 shall forfeit \$500 including all forfeitures, penalties, fees and assessments levied by the court for the first offense and for each subsequent offense and any offense occurring between the hours of 8:00 p.m. and 5:00 a.m. on a street designated as a cruising area under s. 101-20.5 including the land within the street lines whether or not improved, and the costs and disbursements of such action, and in default

thereof, or failure to discharge the imposed forfeit through community service or other means satisfactory to the court, shall be imprisoned as provided by law.

e. Each day of violation shall be a separate offense.

f. Each electronic device improperly disposed under s. 79-2-13-b shall constitute a separate violation.

2. LEIN. a. If any owner or agent fails, omits, neglects or refuses to obey any order from the department of public works or the department of neighborhood services, the appropriate department may take such steps as are necessary to remove the litter, return the garbage or recycling cart to its original storage location and provide accessibility to garbage or recycling carts as defined in s. 79-5-3 and pursuant to s. 66.0627, Wis. Stats., a special charge shall be made against the subject property for litter removal or garbage or recycling cart return.

a-1-a. The amount of the special charge for litter removal shall be determined on or before January 31 of each year by the commissioner of public works, subject to the approval of the common council. The special charge amount shall be based upon the actual average per occurrence cost of litter removal during the prior calendar year.

a-1-b. A person who fails to comply with s.79-5-2 shall receive a written notice to comply with respect to the alleged violation of s 79-5-2. Failure to comply following such notification shall result in a special charge of \$25, and the second and each subsequent failure to comply within a calendar year shall result in a special charge of \$60.

a-1-c. A person who fails to comply with s.79-5-3 shall receive a written notice with respect to the alleged violation of s. 79-5-3. Failure to comply following such notification shall result in a special charge of \$25, and the second and each subsequent failure to comply within a calendar year shall result in a special charge of \$50.

a-1-d. If a person is found to be in violation of the requirements of s. 79-5-5, the person shall be subject to a special charge of \$30. A person who fails to comply with s. 79-5-5 shall receive a written notice with respect to the alleged violation of s.79-5-5. Failure to comply following such notification shall result in a special charge of \$40, and the second and each subsequent failure to comply within a calendar year shall result in a special charge of \$70.

a-2. If any owner fails, omits, neglects or refuses to maintain a property which results in 3 or more violations of s. 79-12 in any 12-month period, the commissioner of neighborhood services may issue a repeat litter charge for the 3rd and subsequent violations to compensate for inspectional, administrative and equipment costs. The charge shall be in accordance with s. 200-33-49-2.

a-3. Special charges made under this subsection shall be due and payable 30 days after billing or if not paid within that time become a lien on the subject property as provided in s. 66.0627, Wis. Stats. Such lien shall take effect as of the date of the delinquency and shall include an administrative charge of \$10. Such lien shall automatically be extended upon the current or next tax roll as a delinquent tax against the property and all proceedings in relation to the collection, return and sale of the property for delinquent real estate taxes shall apply to such charge. Such charge shall not be payable in installments.

b. If any owner fails, omits, neglects or refuses to pay any fee assessed under s. 79-2-1-b for solid waste collection, pursuant to s. 66.0627, Wis. Stats., a special charge may be assessed against the subject property for all unpaid fees. The special charge assessed under this subsection shall consist of an interest penalty and late charge of 3% on outstanding balances and shall be charged on all past due accounts each quarter. This special charge may be waived by the department if deemed warranted by special circumstances. Charges that remain unpaid for 2 full quarters shall be deemed delinquent. The delinquent special charges and 10% penalty shall be reported to the city comptroller for placement on the tax roll.

3. CITATION. In addition to other applicable enforcement procedures and pursuant to the authority of s. 66.0113 Wis. Stats., city officers listed in s. 79-15 may issue citations pursuant to the citation procedure as set forth in s. 50-25 to any person violating any provision of ss. 79-2-9 and 10, 79-3, 79-4-1-a and b, 79-4-1.5, 79-5, 79-9-1 and 79-10 to 79-14. Each city-owned portable waste container or city-owned portable recyclable material container whose use or location violates s. 79-4-1.5 is an offense under that section, and each day of violation constitutes a separate offense.

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79-17. Appeal of Special Charges. Appeal of the determination of the commissioner imposing special charges against premises may be submitted to the administrative review appeals board as provided by s. 320-11. Appeals filed pursuant to this section shall be filed no later than 30 days after the special charges are imposed.

79-19. Rules. The commissioner is authorized to make reasonable rules for the regulation and administration of this chapter, including charges for extraordinary, unusual or special services as may be necessary and exemptions for hardship cases provided no such rules contravene the specific provisions of this chapter. Such rules shall be available at the office of the city clerk.

**SUBCHAPTER 2
RECYCLING**

79-21. Purpose. The purpose of this subchapter is to promote recycling, composting and resource recovery through the administration of an effective recycling program, as provided in s. 289.11, Wis. Stats., and ch. NR 544, Wis. Adm. Code.

79-23. Definitions. In this subchapter:

1. BI-METAL CONTAINER means a container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.

2. Commissioner shall mean the commissioner of public works and such supervisory employees of the department to whom his or her authority may be delegated.

3. CONTAINER BOARD means corrugated paperboard used in the manufacture of shipping containers and related products.

4. DEPARTMENT means the department of public works.

4.5. ELECTRONIC DEVICE has the meaning given in s. 287.17 (1) (gm), Wis. Stats.

5. FOAM POLYSTYRENE PACKAGING means packaging made primarily from foam polystyrene that satisfies one of the following criteria:

a. Is designed for serving food or beverages.

b. Consists of loose particles intended to fill space and cushion the packaged article in a shipping container.

c. Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.

6. HDPE means high density polyethylene, labeled by the SPI code #2.

7. LDPE means low density polyethylene, labeled by the SPI code #4.

8. LICENSED SOLID WASTE PROCESSING FACILITY means a solid waste processing facility that is licensed by the Wisconsin department of natural resources.

9. MAGAZINES means magazines and other materials printed on similar paper.

10. MAJOR APPLIANCE means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator, furnace, boiler, dehumidifier, water heater or stove.

11. MULTIPLE-FAMILY DWELLING means a property containing 5 or more residential units, including those which are occupied seasonally.

12. NEWSPAPERS means newspapers and other materials printed on newsprint.

13. NON-RESIDENTIAL FACILITIES AND PROPERTIES means commercial, retail, industrial, institutional and governmental facilities and properties. The term does not include multiple-family dwellings.

14. OFFICE PAPER means high grade printing and writing papers from offices in non-residential facilities and properties. Printed white ledger paper and computer printout are examples of office paper generally accepted as high grade. The term does not include industrial process waste.

15. OTHER RESINS OR MULTIPLE RESINS means plastic resins labeled by the SPI code #7.

16. Person includes any individual, contractor, firm or corporation, or agent or servant thereof.

17. PETE means polyethylene terephthalate, labeled by the SPI code #1.

18. PLASTIC CONTAINER means an individual, separate, rigid plastic bottle, can, jar or carton, except that the term does not include a blister pack that is originally used to contain a product that is the subject of a retail sale.

19. Postconsumer waste means solid waste other than solid waste generated in the production of goods, hazardous waste as defined in s. 289.01(12), Wis. Stats., a hazardous substance as defined in s. 79-1-5, waste from construction and demolition of structures, scrap automobiles or high-volume industrial waste as defined in s. 289.01(17), Wis. Stats. The term includes domestic waste, garbage, tree waste and yard waste, as those terms are defined in s. 79-1-12.

20. PP means polypropylene, labeled by the SPI code #5.

21. PS means polystyrene, labeled by the SPI code #6.

22. PVC means polyvinyl chloride, labeled by the SPI code #3.

23. RECYCLABLE MATERIAL includes electronic devices, lead acid batteries, major appliances, waste oil, oil filters, yard waste, aluminum containers, bi-metal containers, corrugated paper or other container board, glass containers, magazines, newspapers, office paper, steel containers, waste tires and rigid plastic containers made of PETE and HDPE.

24. SOLID WASTE has the meaning given in s. 289.01(33), Wis. Stats.

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25. SOLID WASTE DISPOSAL FACILITY means a facility that discharges, deposits, injects, dumps or places any solid waste into or on any land or water. The term does not include a facility whose handling of solid waste is limited to the transportation, storage or treatment of solid waste.

26. SOLID WASTE TREATMENT FACILITY means a facility that handles solid waste by any method, technique or process that is designed to change the physical, chemical or biological character or composition of solid waste. The term includes a facility that incinerates solid waste.

27. SPECIAL RECYCLABLE MATERIALS means electronic devices, lead acid batteries, major appliances, waste oil, oil filters and yard waste.

28. STANDARD RECYCLABLE MATERIALS means aluminum containers, bi-metal containers, corrugated paper or other container board, glass containers, magazines, newspapers, office paper, steel containers, waste tires and rigid plastic containers made of PETE and HDPE.

29. WASTE TIRE means a tire that is no longer suitable for its original purpose because of wear, damage or defect. The term includes an unserviceable tire as defined in s. 84-48.

30. Yard waste means leaves, grass clippings, garden debris and brush. Brush includes branches and tree limbs having a diameter of less than 6 inches.

79-25. Separation of Recyclable Materials Required. Except as provided in s. 79-27, occupants of single family residences, 2 to 4 unit residences, condominium complexes, multiple-family dwellings and non-residential facilities and properties shall separate the following materials from postconsumer waste:

1. SPECIAL RECYCLABLE MATERIALS.
 - a. Electronic devices.
 - b. Lead acid batteries.
 - c. Major appliances.
 - d. Waste oil and oil filters.
 - e. Yard waste.
2. STANDARD RECYCLABLE MATERIALS.
 - a. Aluminum containers.
 - b. Bi-metal containers.
 - c. Corrugated paper or other container board.
 - d. Glass containers.
 - e. Magazines.
 - f. Newspapers.
 - g. Office paper.

h. Rigid plastic containers made of PETE and HDPE.

i. Steel containers.

j. Waste tires.

79-27. Exemptions from Separation Requirements. The separation requirements of s. 79-25 do not apply to the following:

1. Occupants of single family residences, 2 to 4 unit residences, condominium complexes, multiple-family dwellings and non-residential facilities and properties that send their postconsumer waste to a licensed solid waste processing facility that recovers the materials specified in s. 79-25 from solid waste in as pure a form as is technically feasible.

2. Solid waste that is burned as a supplemental fuel at a facility if less than 30% of the heat input to the facility is derived from the solid waste burned as supplemental fuel.

3. A standard recyclable material for which a variance has been granted by the Wisconsin department of natural resources under s. 287.11(2m), Wis. Stats., or s. NR 544.14, Wis. Adm. Code.

79-29. Care of Separated Recyclable Materials. To the greatest extent practicable, the recyclable materials separated in accordance with s. 79-25 shall be clean and kept free of contaminants such as food or product residue, oil, grease and other non-recyclable materials, including but not limited to household hazardous waste, medical waste, agricultural chemical containers and hazardous substances as defined in s. 79-1-5. Recyclable materials shall be stored in a manner that protects them from wind, rain and other inclement weather conditions.

79-31. Residences, Except Multiple-Family Dwellings. Occupants of single family residences, 2 to 4 unit residences and condominium complexes where collection service is provided by the department shall provide for the preparation and collection of separated standard recyclable materials in accordance with the rules of the commissioner.

79-32. Return to Storage Location. Owners and tenants of those properties serviced by the recycling collection system, where carts are left at the alley line or curb line after servicing, shall return the carts to their proper storage locations before 10 p.m. on the day they are serviced.

79-33. Multiple-Family Dwellings. 1. Except as provided under sub. 2, owners, lessees or designated agents of multiple-family dwellings, as well as those condominium complexes where collection service is not provided by the department, shall do all of the following to recycle standard recyclable materials:

a. Provide, at their own cost, adequate, separate containers for recyclable materials. Containers shall be stored on the premises in a location that is convenient for deposit and collection of recyclables.

b. Notify in writing, at the time of leasing and at least semi-annually thereafter, all tenants and occupants of the dwellings about the recycling program.

c. Provide for the collection of the materials separated from the solid waste by the users, tenants and occupants and for the delivery of those materials to a recycling facility.

2. The requirements specified in sub. 1 do not apply to the owner, lessee or designated agent of a multiple-family dwelling if the postconsumer waste that is generated within the dwelling is treated at a licensed solid waste processing facility that recovers for recycling standard recyclable materials from solid waste in as pure a form as is technically feasible.

79-35. Non-Residential Facilities and Properties.

1. Except as provided under sub. 2, owners, lessees or designated agents of non-residential facilities and properties shall do all of the following to recycle standard recyclable materials:

a. Provide adequate, separate containers for the recyclable materials.

b. Notify in writing, at the time of leasing and at least semi-annually thereafter, all tenants and occupants of the facilities and properties about the recycling program.

c. Provide for the collection of the materials separated from the solid waste by the users, tenants and occupants and for the delivery of those materials to a recycling facility.

2. The requirements specified in sub. 1 do not apply to the owner, lessee or designated agent of a non-residential facility or property if the postconsumer waste that is generated within the facility or property is treated at a licensed solid waste processing facility that recovers for recycling standard recycling materials from solid waste in as pure a form as is technically feasible.

79-37. Disposal of Separated Standard Recyclable Materials Prohibited. No person shall dispose of in a solid waste disposal facility or burn in a solid waste treatment facility any standard recyclable materials which have been separated for recycling, except that waste tires may be burned with energy recovery in a solid waste treatment facility.

79-39. Management of Special Recyclable Materials. 1. Occupants of single family residences, 2 to 4 unit residences, condominium complexes, multiple-family dwellings and non-residential facilities and properties shall manage lead acid batteries as provided in s. 79-2-9, and shall handle electronic devices, major appliances, waste oil, oil filters and yard waste in accordance with this section and the rules of the commissioner.

2. A microwave oven may be disposed of in a solid waste disposal facility if the capacitor has been removed and disposed of in accordance with s. 299.45(7), Wis. Stats., if applicable.

79-40. Unauthorized Removal of Recyclables or Recycling Containers.

1. No person shall remove any material from a recycling cart, bin or other container that has been furnished by the city or by a private recyclable collector for the purpose of accumulating recyclable materials for collection by the city or the private collector. This prohibition applies to recycling containers located in or by residential and non-residential buildings, at self-help stations and in public places.

2. No person shall remove a recycling cart, bin or other container that has been furnished by the city or by a private recyclable collector.

3. This section does not apply to employees and agents of the city or of a private recyclable collector in the performance of their duties or to materials that are removed by the person who deposited them.

79-41. Administration and Confidentiality of Record.

1. The commissioner, the department and the operations division shall be responsible for administration of the provisions of this subchapter.

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2. The commissioner is authorized to make reasonable rules for the regulation and administration of this subchapter, including charges for extraordinary, unusual or special services as may be necessary and exemptions for hardship cases, provided such rules do not contravene the specific provisions of this subchapter. Such rules shall be available at the office of the city clerk.

3. To the extent permitted by law, records relating to recycling activities shall be kept confidential when necessary to protect proprietary information.

79-43. Enforcement. For the purpose of ascertaining compliance with the provisions of this subchapter, any authorized officer, employee or representative of the commissioner, the department or the department of neighborhood services may use any lawful means to adequately enforce the requirements of this subchapter including, but not limited to, education and information programs and inspections to ascertain proper separation, preparation, collection and disposition of recyclable materials.

79-47. Penalties, Liens and Citations.

1. **PENALTIES.** a. A person who fails to comply with s. 79-29 shall receive a written notice with respect to the alleged violation of s. 79-29. Failure to comply with s. 79-29 following such notification shall result in a special charge of \$25, and the second and each subsequent failure to comply with s. 79-29 within a calendar year shall result in a special charge of \$50.

b. A person who violates s. 79-33 or 79-35 shall forfeit as follows:

b-1. Not less than \$50 nor more than \$200 for a first or 2nd violation within a 12-month period, and the costs and disbursements of such action. Each day of violation shall be a separate offense.

b-2. Not less than \$100 nor more than \$500 for a 3rd or subsequent violation within a 12-month period, and the costs and disbursements of such action. Each day of violation shall be a separate offense.

c. A person who violates s. 79-37 shall forfeit as follows:

c-1. Not less than \$500 nor more than \$1,000 for a first violation within a 12-month period, and the costs and disbursements of such action. Each day of violation shall be a separate offense.

c-2. Not less than \$1,000 nor more than \$5,000 for a 2nd or subsequent violation within a 12-month period, and the costs and disbursements of such action. Each day of violation shall be a separate offense.

d. A person who violates s. 79-40 shall forfeit not less than \$25 nor more than \$500 for each violation, and the costs and disbursements of such action.

e. Any person who fails to comply with s. 79-32 shall be subject to a special charge of \$30 and shall receive a written notice with respect to the alleged violation of s. 79-32. Failure to comply following such notification shall result in a special charge of \$40, and each subsequent failure to comply within a calendar year shall result in a special charge of \$70.

2. **LIENS.** a. Whenever a person fails, omits, neglects or refuses to obey an order of a department or city officer that is made on account of noncompliance with any provision of this subchapter, pursuant to s. 66.0627, Wis. Stats., a special charge shall be made against the subject property.

b. A person who fails to comply with s. 79-25 shall receive a written notice with respect to the alleged violation of s. 79-25. Failure to comply with s. 79-25 following such notification shall result in a special charge of \$10, and the second and each subsequent violation within a calendar year shall result in a special charge of \$25.

c. Special charges made under this subsection shall be due and payable 30 days after billing or if not paid within that time become a lien on the subject property as provided in s. 66.0627, Wis. Stats. The lien shall take effect on the date of the delinquency and shall include an administrative charge of \$10. The lien shall automatically be extended upon the current or next tax roll as a delinquent tax against the property and all proceedings in relation to the collection, return and sale of the property for delinquent real estate taxes shall apply to the special charge. The special charge shall not be payable in installments.

d. Whenever a special charge is made against property that is either a single family residence or a 2-family residence, the department assessing the special charge may bill both the occupant of the residence and the owner of the residence, if the department knows that the occupant and the owner are not the same and if the identity of the occupant is known to the department. If the department bills the occupant

the occupant of the residence shall be solely responsible for payment of the special charge within 30 days after billing. If the special charge is not paid within that time, the owner shall become responsible for payment of the special charge on the date of the delinquency. Whenever an occupant is billed for a special charge and the payment is not made within 30 days after billing, the department shall promptly give written notice of such nonpayment to the owner of the residence. Whenever an owner becomes responsible for payment of a special charge because of the delinquency of an occupant under this paragraph, the owner may recover the amount of that special charge under sub. e and s. 200-20.5.

e. Whenever a special charge is assessed under this subsection, a landlord may require a responsible tenant to pay the amount of the special charge under s. 200-20.5.

3. CITATIONS. In addition to other applicable enforcement procedures and pursuant to the authority of s. 66.0113, Wis. Stats., the commissioners of public works and neighborhood services or their designees may issue citations pursuant to the citation procedure as set forth in s.50-25 to any person who violates any provision of this subchapter.

For the legislative history of chapter 79, contact the Municipal Research Library.

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